

#### **420 KAR 1:040. Tier I water use fees.**

RELATES TO: KRS 151.100-151.600, 151.700-151.730, 151.990, 223.400-223.460, 224.70, 224.73

STATUTORY AUTHORITY: KRS 151.710, 151.720, 151.725, 151.730

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151.700 through 151.730 authorize the Kentucky River Authority to manage the surface water and groundwater of the Kentucky River basin. The authority has the power and duty to develop and to implement programs relating to the locks and dams on the Kentucky River; to acquire, to sell and to lease property; to develop recreational areas; to issue revenue bonds; to assess fees for water use; to contract for services; to adopt administrative regulations protecting water in the Kentucky River basin; to develop and to implement comprehensive plans for protecting the water of the Kentucky River basin; and to collaborate with the Natural Resources and Environmental Protection Cabinet and other state agencies in coordinating Kentucky River basin water resource and water quality activities. This administrative regulation establishes Tier I water use fees.

Section 1. Purpose. This administrative regulation establishes Tier I fees and incidental charges for the withdrawal of surface water and groundwater from the Kentucky River basin.

Section 2. Persons Required to Pay Tier I Fee. The persons identified in this section of this administrative regulation shall pay to the authority the Tier I fee and incidental charges established by this administrative regulation, unless exempted by Section 3 of this administrative regulation.

(1) A person who withdraws surface water or groundwater from the Kentucky River basin for non-contact cooling water shall pay a Tier I fee based on net withdrawal, which shall be 150 percent of the Tier I fee for gross withdrawal.

(2) Unless entitled to a fee based on net withdrawal in accordance with subsection (1) of this section, a person who withdraws surface water or groundwater from the Kentucky River basin shall pay a Tier I fee based on gross withdrawal.

Section 3. Persons Exempted from Paying Tier I Fee. The following persons are exempted from paying the Tier I fees and incidental charges established by this administrative regulation:

(1) A person who withdraws surface water or groundwater from the Kentucky River basin primarily for agricultural use; and

(2) A person whose gross withdrawal of surface water or groundwater from the Kentucky River basin is less than 10,000 gallons per day.

Section 4. Tier I Fee Rates. (1) The Tier I fee for gross withdrawal shall be \$0.028 per 1000 gallons and any portion thereof from the effective date of this administrative regulation through June 30, 1995. The Tier I fee for gross withdrawal shall be \$0.022 per 1,000 gallons and any portion thereof from July 1, 1995 through June 30, 1996.

(2) The Tier I fee for net withdrawal shall be \$0.028 per 1000 gallons or any portion thereof, multiplied by one and five-tenths (1.5), from the effective date of this administrative regulation through June 30, 1995. The Tier I fee for net withdrawal shall be \$0.022 per 1000 gallons and any portion thereof, multiplied by one and five-tenths (1.5), from July 1, 1995 through June 30, 1996.

(3) The Tier I fees may be amended as necessary to fund the Tier I projects budgeted by the authority. The authority shall submit to the General Assembly with its budget request a fee structure necessary to fund those Tier I projects. The authority shall set the amended fees based on the approved budget.

(4) Charges incidental to Tier I fees. The authority may assess a person required to pay a Tier I

fee the following charges incidental to collection of that fee:

(a) A deposit of up to three (3) months estimated billings, except for bills of local governments, with interest to accrue at six (6) percent per annum and the deposit to be returned in a year if prior payments were timely;

(b) A late payment charge of up to five (5) percent of the last quarter's bill for payments that are twenty (20) days late or, for local governments, more than ten (10) days after the last regular meeting of local government, whichever is later;

(c) A returned check charge of fifteen (15) dollars; and

(d) A field collection charge, with a minimum charge of fifty (50) dollars and a maximum charge of \$500.

Section 5. Collection of Fees. (1) A person required by this administrative regulation to pay a Tier I fee shall pay that fee quarterly, and shall pay any charge incidental to the Tier I fee upon the authority's request. Payment shall be made within ten (10) days of receipt of a bill from the authority.

(2) Fees and incidental charges shall be paid by check or money order, and made payable to the Kentucky State Treasurer. The authority may require a check to be certified if any previous check to the authority has been returned for insufficient funds.

(3) A person paying a Tier I fee for gross or net withdrawal shall complete and submit to the authority the water withdrawal reporting form incorporated by reference in Section 6 of this administrative regulation, identifying the number of gallons withdrawn during that quarter. A person paying a Tier I fee for net withdrawal shall also complete and submit to the authority the water discharge reporting form incorporated by reference in Section 7 of this administrative regulation, identifying the number of gallons discharged. The water withdrawal and discharge reporting forms shall be submitted within fifteen (15) calendar days after the end of the quarter. A person paying a Tier I fee may use the water withdrawal reporting form required by KRS 151.160 and 401 KAR 4:010 in lieu of the water withdrawal reporting form incorporated by reference in Section 6 of this administrative regulation.

Section 6. Incorporation by Reference of Water Withdrawal Reporting Form. The document entitled "Water Withdrawal Reporting Form" is hereby incorporated by reference. The effective date shall be the effective date of this administrative regulation. It is available for public inspection and copying, subject to copyright law, at the office of the Kentucky River Authority, 107 Mero Street, Frankfort, Kentucky 40601, between the hours of 8 a.m. and 4:30 p.m., Mondays through Fridays, excluding state holidays.

Section 7. Incorporation by Reference of Water Discharge Reporting Form. The document entitled "Water Discharge Reporting Form" is hereby incorporated by reference. The effective date shall be the effective date of this administrative regulation. It is available for public inspection and copying, subject to copyright law, at the office of the Kentucky River Authority, 107 Mero Street, Frankfort, Kentucky 40601, between the hours of 8 a.m. and 4:30 p.m., Mondays through Fridays, excluding state holidays. (20 Ky.R. 881; Am. 1621; eff. 12-17-93.)